

FIRST REGULAR SESSION

SENATE BILL NO. 619

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Read 1st time February 28, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1241L.011

AN ACT

To repeal section 108.170, RSMo, and to enact in lieu thereof one new section relating to public finance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 108.170, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 108.170, to read as follows:
108.170. 1. Notwithstanding any other provisions of any law or charter
2 to the contrary, any issue of bonds, notes, or other evidences of indebtedness,
3 including bonds, notes, or other evidences of indebtedness payable solely from
4 revenues derived from any revenue-producing facility, hereafter issued under any
5 law of this state by any county, city, town, village, school district, educational
6 institution, drainage district, levee district, nursing home district, hospital
7 district, library district, road district, fire protection district, water supply
8 district, sewer district, housing authority, land clearance for redevelopment
9 authority, special authority created under section 64.920, RSMo, authority
10 created pursuant to the provisions of chapter 238, RSMo, or other municipality,
11 political subdivision or district of this state shall be negotiable, may be issued in
12 bearer form or registered form with or without coupons to evidence interest
13 payable thereon, may be issued in any denomination, and may bear interest at
14 a rate not exceeding ten percent per annum, and may be sold, at any sale, at the
15 best price obtainable, not less than ninety-five percent of the par value thereof,
16 anything in any proceedings heretofore had authorizing such bonds, notes, or
17 other evidence of indebtedness, or in any law of this state or charter provision to
18 the contrary notwithstanding. Such issue of bonds, notes, or other evidence of

19 indebtedness may bear interest at a rate not exceeding fourteen percent per
20 annum if sold at public sale after giving reasonable notice of such sale, at the
21 best price obtainable, not less than ninety-five percent of the par value thereof;
22 provided, that such bonds, notes, or other evidence of indebtedness may be sold
23 to any agency or corporate or other instrumentality of the state of Missouri or of
24 the federal government at private sale at a rate not exceeding fourteen percent
25 per annum.

26 2. Notwithstanding the provisions of subsection 1 of this section to the
27 contrary, the sale of bonds, notes, or other evidence of indebtedness issued by the
28 state board of public buildings created under section 8.010, RSMo, the state board
29 of fund commissioners created under section 33.300, RSMo, any port authority
30 created under section 68.010, RSMo, the bi-state metropolitan development
31 district authorized under section 70.370, RSMo, any special business district
32 created under section 71.790, RSMo, any county, as defined in section 108.465,
33 exercising the powers granted by sections 108.450 to 108.470, the industrial
34 development board created under section 100.265, RSMo, any planned industrial
35 expansion authority created under section 100.320, RSMo, the higher education
36 loan authority created under section 173.360, RSMo, the Missouri housing
37 development commission created under section 215.020, RSMo, the state
38 environmental improvement and energy resources authority created under section
39 260.010, RSMo, the agricultural and small business development authority
40 created under section 348.020, RSMo, any industrial development corporation
41 created under section 349.035, RSMo, or the health and educational facilities
42 authority created under section 360.020, RSMo, shall, with respect to the sales
43 price, manner of sale and interest rate, be governed by the specific sections
44 applicable to each of these entities.

45 3. Notwithstanding other provisions of this section or other law, the sale
46 of bonds, notes or other evidence of indebtedness issued by any housing authority
47 created under section 99.040, RSMo, may be sold at any sale, at the best price
48 obtainable, not less than ninety-five percent of the par value thereof, and may
49 bear interest at a rate not exceeding fourteen percent per annum. The sale shall
50 be a public sale unless the issuing jurisdiction adopts a resolution setting forth
51 clear justification why the sale should be a private sale except that private
52 activity bonds may be sold either at public or private sale.

53 4. Notwithstanding other provisions of this section or law, industrial
54 development revenue bonds may be sold at private sale and bear interest at a

55 rate not exceeding fourteen percent per annum at the best price obtainable, not
56 less than ninety-five percent of the par value thereof.

57 5. Notwithstanding other provisions in subsection 1 of this section to the
58 contrary, revenue bonds issued for airport purposes by any constitutional charter
59 city in this state which now has or may hereafter acquire a population of more
60 than three hundred thousand but less than six hundred thousand inhabitants,
61 according to the last federal decennial census, may bear interest at a rate not
62 exceeding fourteen percent per annum if sold at public sale after giving
63 reasonable notice, at the best price obtainable, not less than ninety-five percent
64 of the par value thereof.

65 6. For purposes of the interest rate limitations set forth in this section,
66 the interest rate on bonds, notes or other evidence of indebtedness described in
67 this section means the rate at which the present value of the debt service
68 payments on an issue of bonds, notes or other evidence of indebtedness,
69 discounted to the date of issuance, equals the original price at which such bonds,
70 notes or other evidence of indebtedness are sold by the issuer. Interest on bonds,
71 notes or other evidence of indebtedness may be paid periodically at such times as
72 shall be determined by the governing body of the issuer and may be compounded
73 in accordance with section 408.080, RSMo.

74 **7. Notwithstanding any provision of law or charter to the**
75 **contrary:**

76 **(1) Any entity referenced in subsection 1 or 2 of this section and**
77 **any other political corporation of the state whose annual operating**
78 **budget for the current year exceeds twenty-five million dollars may, in**
79 **connection with managing the cost of purchasing fuel, electricity,**
80 **natural gas, and other commodities to such entity or political**
81 **corporation, enter into agreements providing for fixing the cost of such**
82 **commodity, including without limitation agreements commonly**
83 **referred to as hedges, futures, and options; provided that no eligible**
84 **school, as defined in section 393.310, RSMo, shall be authorized by this**
85 **subsection to enter into such agreements in connection with the**
86 **purchase of natural gas while the tariffs required under section**
87 **393.310, RSMo, are in effect;**

88 **(2) Any entity referenced in subsection 1 or 2 of this section and**
89 **any other political corporation of the state may, in connection with its**
90 **bonds, notes, or other obligations then outstanding or to be issued and**

91 bearing interest at a fixed or variable rate, enter into agreements
92 providing for payments based on levels of or changes in interest rates,
93 including without limitation agreements commonly referred to as
94 interest rate swaps, hedges, caps, floors, and collars, provided that:

95 (a) As of the date of issuance of the bonds, notes, or other
96 obligations to which such agreement relates, such entity or political
97 corporation will have bonds, notes, or other obligations outstanding in
98 an aggregate principal amount of at least fifty million dollars; and

99 (b) As of the date of such agreement, such entity's or political
100 corporation's most recently issued bonds, notes, or other obligations
101 have received a stand-alone credit rating in one of the two highest
102 categories, without regard to any gradation within such categories,
103 from at least one nationally recognized credit rating agency;

104 (3) Any utility referenced in subsection 1 or 2 of this section and
105 any other political corporation of the state not satisfying the threshold
106 for entering into the agreements described in subdivisions (1) and (2)
107 of this subsection may enter into such agreements upon the adoption
108 by the governing body of such entity or political corporation of a
109 written policy governing such agreements, and such policy shall
110 provide guidance with respect to the permitted purposes, authorization
111 process, mitigation of risk factors, ongoing oversight responsibilities,
112 market disclosure, financial strategy, and any other factors in
113 connection with such agreements determined to be relevant by the
114 governing body of such entity or political corporation;

115 (4) Any entity referenced in subsection 1 or 2 of this section and
116 any other political corporation of the state may enter into agreements
117 as provided in this subsection at such times and containing such
118 payment, security, default, remedy, and other terms and conditions,
119 which shall be consistent with any written policy adopted under
120 subdivision (3) of this subsection, as may be approved by the governing
121 body of such entity or political corporation after giving due
122 consideration to the creditworthiness of the counterparty or other
123 obligated party, including any rating by any nationally recognized
124 rating agency and any other criteria as may be appropriate. Nothing
125 in this subsection shall be applied or interpreted to authorize any such
126 entity or political corporation to enter into any such agreement for
127 investment purposes or to diminish the power any such entity or

128 **political corporation may otherwise have under any other provisions**
129 **of law.**

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